

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SSW002
DA Number	DA-1183/2016
LGA	Liverpool City Council
Proposed Development	Aged care facility including partial demolition of Bond House and demolition of other aged care buildings on the site, site works including excavation and tree removal, staged construction of ten buildings providing 155 beds and communal facilities, at grade and basement car parking and site landscaping and infrastructure upgrades. The application is made in accordance with Section 108 of the Environmental Planning & Assessment Act 1979 under existing use rights. The proposal is identified as Integrated Development under Section 100B of the Rural Fires Act 1997 requiring approval from the NSW Rural Fire Service. Liverpool City Council is the consent authority and the Sydney South West Planning Panel has the function of determining the application.
Street Address	DP 717956 Cnr Lot 152 68-82 STEWART AVENUE, HAMMONDVILLE NSW 2170
Applicant/Owner	HAMMONDCARE
Date of DA Lodgement	9 December 2016
Number of Submissions	2 submissions
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	The Capital Investment Value of the development is over \$20 million (\$46,684,100)
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • <i>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</i> <ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 - State Environmental Planning Policy No. 55 – Remediation of Land - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment - Liverpool Local Environmental Plan 2008 - Liverpool Contributions Plan 2009 • <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)</i> <ul style="list-style-type: none"> - N/A • <i>List any relevant development control plan: s79C(1)(a)(iii)</i> <ul style="list-style-type: none"> - Liverpool Development Control Plan 2008 <ul style="list-style-type: none"> - Part 1 – General Controls for all Development • <i>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a</i>

	<p><i>developer has offered to enter into under section 93F: s79C(1)(a)(iv)</i></p> <ul style="list-style-type: none"> - No planning agreement relates to the site or proposed development <ul style="list-style-type: none"> • <i>List any coastal zone management plan: s79C(1)(a)(v)</i> <ul style="list-style-type: none"> - The subject site is not within any coastal zone management plan • List any relevant regulations: s.79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <p>Consideration of the provisions of the Building Code of Australia and National Construction Code (NCC)</p>
Does the DA require Special infrastructure Contributions conditions (s94EF)?	The proposal is not subject to a Special Infrastructure Contributions (SIC) condition
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1) Draft Conditions of consent 2) Architectural Plans 3) Architectural Design Statement 4) Design excellence panel comments 5) Submissions lodged with the DA 6) Statement of Environmental Effects 7) Arborist Report and the addendum to that report prepared by Red Gum Horticultural
Report prepared by	Michael Oliveiro
Report date	14 September 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney South West Planning Panel is the determining body as the Capital Investment Value of the development is over \$20 million, pursuant to Schedule 4A of the Environmental Planning and Assessment Act 1979.

1.1 The proposal

The Development Application is seeking approval for partial demolition of an existing aged care facility at 68-82 Stewart Avenue, Hammondville and the construction of an upgraded aged care facility in its place to facilitate the provision of care for dementia occupants, with associated car parking and landscape works. The upgraded facility seeks to provide 155 beds for resident care and 134 parking at the site over two at-grade parking areas and one basement car park.

The development is Integrated Development as per the Section 100B of the Rural First Act 1997 and requires approval from the NSW Rural Fire Service. The development application has been made in accordance with Section 108 of the Environmental Planning and Assessment Act 1979 for Existing Use Rights.

1.2 The site

The site is identified as Lot 152 in DP 717956 and is described as 68-82 Stewart Avenue, Hammondville. It has primary street frontages of 370m to Judd Avenue and Stewart Avenue. The site is irregular in shape with a total area of 92,787.59m². It currently accommodates HammondCare Residential Aged Care Services, which includes independent living units, home care services and a residential aged care facility. The complex includes buildings of various architectural designs dating from the early 1950's.

1.3 The issues

The following issues relating to the proposed development have been outlined and discussed in this report:

- Permissibility: application is relying on Existing use Rights;
- LEC Planning Principles for existing uses: the development has been assessed in accordance with the provisions of the Senior Housing SEPP 2004 and Council's LEP and DCP and is considered consistent with these policies;
- Design Excellence: the development is considered acceptable with regards to the comments made by Council's Design Excellence Panel;
- Objections: the development has been amended and is recommended to be further amended to resolve potential impacts to residents in the locality; and
- The height of building.

1.4 Exhibition of the proposal

The proposal was notified from 20 December 2016 to 18 January 2017 in accordance with Liverpool Development Control Plan 2008. As a result of the public consultation, two submissions were received objecting to the at-grade car park associated with the proposed development on the eastern portion of the site. One of the submissions contained a petition

with approximately 40 signatures. The matters of concern to residents relate to the loss of amenity to the Independent Living Units by removal of open space and vegetation and the introduction of cars to this undeveloped part of the site.

The applicant was given the opportunity to respond to the objections raised in the two submissions and provided a response dated 15 May 2017. One further submission, dated 1 August 2017, was received with regards to the proposal, maintaining some of the concerns raised with regards to the at-grade car park. As per the recommendations made in the submissions, see Part 6.9 of this report, the development is considered acceptable with regards to the community consultation process.

1.5 Conclusion

The application has been assessed pursuant to the provision of the Environmental Planning and Assessment Act 1979. Based on the assessment of the application, it is recommended that the application be approved subject to the imposition of conditions.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The greater site is identified as Lot 152 in DP 717956 and is described as 68-82 Stewart Avenue, Hammondville. It has primary street frontages to Judd Avenue and Stewart Avenue. An aerial photograph of the subject site is provided below, which shows the greater site within the dashed red line.

The site is irregular in shape with a total area of 92,787.6m². It currently accommodates the Hammond Care Residential Aged Care Services, which includes Independent Living Units, home care services and a residential aged care facility. The complex includes buildings of various architectural designs dating from the early 1950's. These buildings which line a number of cul-de-sac avenues are arranged in a roughly circular site and form the Hammondville Homes for Senior Citizens. The site also includes an area of undeveloped land within the eastern portion of the site.

The site gently slopes from north-west to south-east, with a high point near the corner of Judd Avenue and Southwood Avenue at 14.20 AHD, to a low point in the south-east corner around the detention basin at 4.01 AHD.

The area, the subject to the proposal ("development site") for the upgraded facility, has a primary frontage to Judd Avenue to the west and frontages to internal streets including Southwood Avenue to the north, Katie Walsh Avenue to the east and Thomas Avenue to the south. This area is known as the Bond House Complex.

A figure representing the development site is provided below and is overlayed in red, see Figure 2.



Figure 1: Aerial photograph of the Site

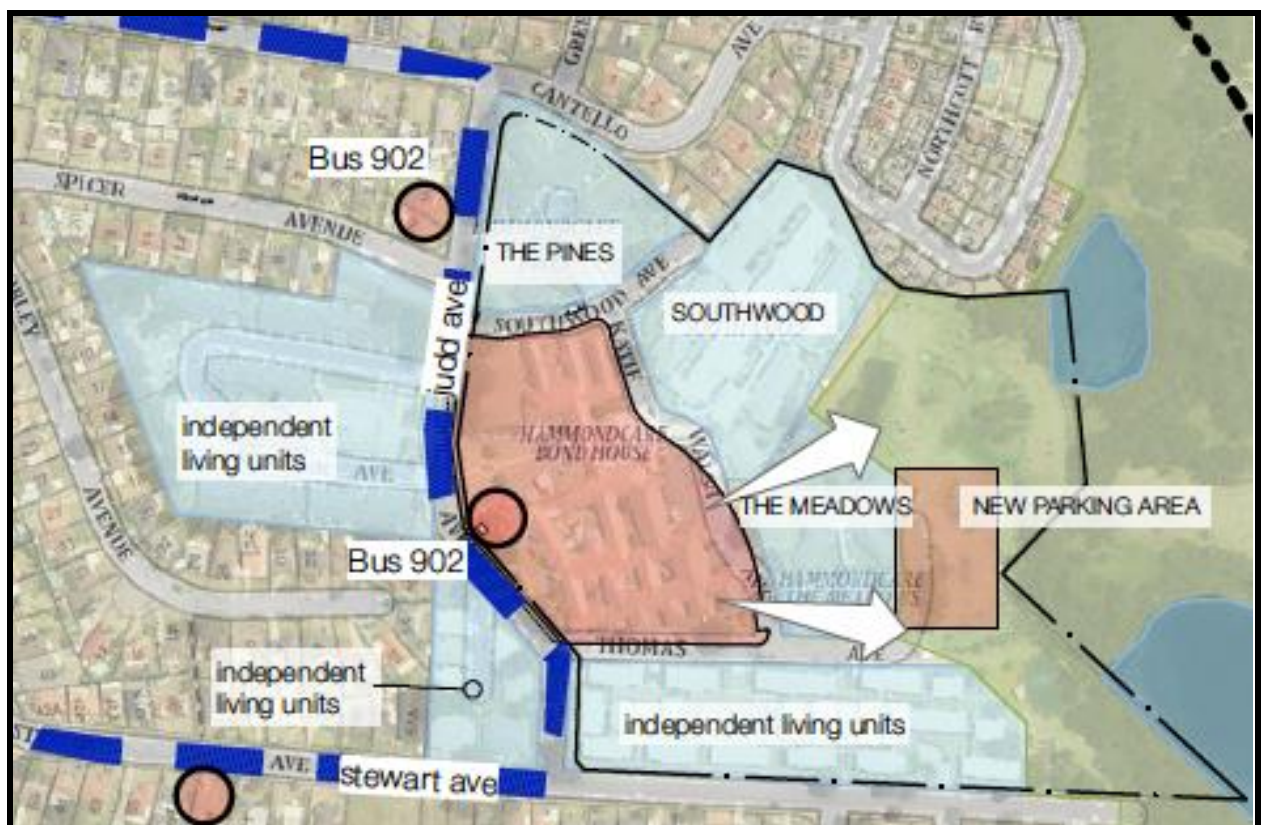


Figure 2: Development site for the upgraded facility and at grade car park, indicated in red

The development site is bound by Independent Living Units for seniors to the west and south and also the Pines, Southwood and The Meadows nursing homes to the north and east. The development site also includes an at-grade parking area located at the eastern portion of the greater site with access from Thomas Avenue. This area is undeveloped and mostly cleared of vegetation. The total development site is approximately 20,000m².

The Bond House Complex is characterised by a series of interconnected one and two storey brick homes set in landscaped grounds. The Bond House Complex is indicated in the following figure.



Figure 3: Bond House Complex to be demolished and upgraded.



Figure 4: View of Bond House from across Judd Avenue



Figure 5: View of Trigg House from Judd Avenue



Figure 6: View of Poate Home from Judd Avenue



Figure 7: View of Lavender Unit from Thomas Avenue (internal street)



Figure 7: Rear View of Jones Hostel viewed from Katie Walsh Avenue (internal street)

2.2 The locality

The greater site is located within the suburb of Hammondville. This residential area is predominantly characterised by low density detached housing with sporadic infill developments consisting of semi-detached dwellings and multi-dwelling housing developments.

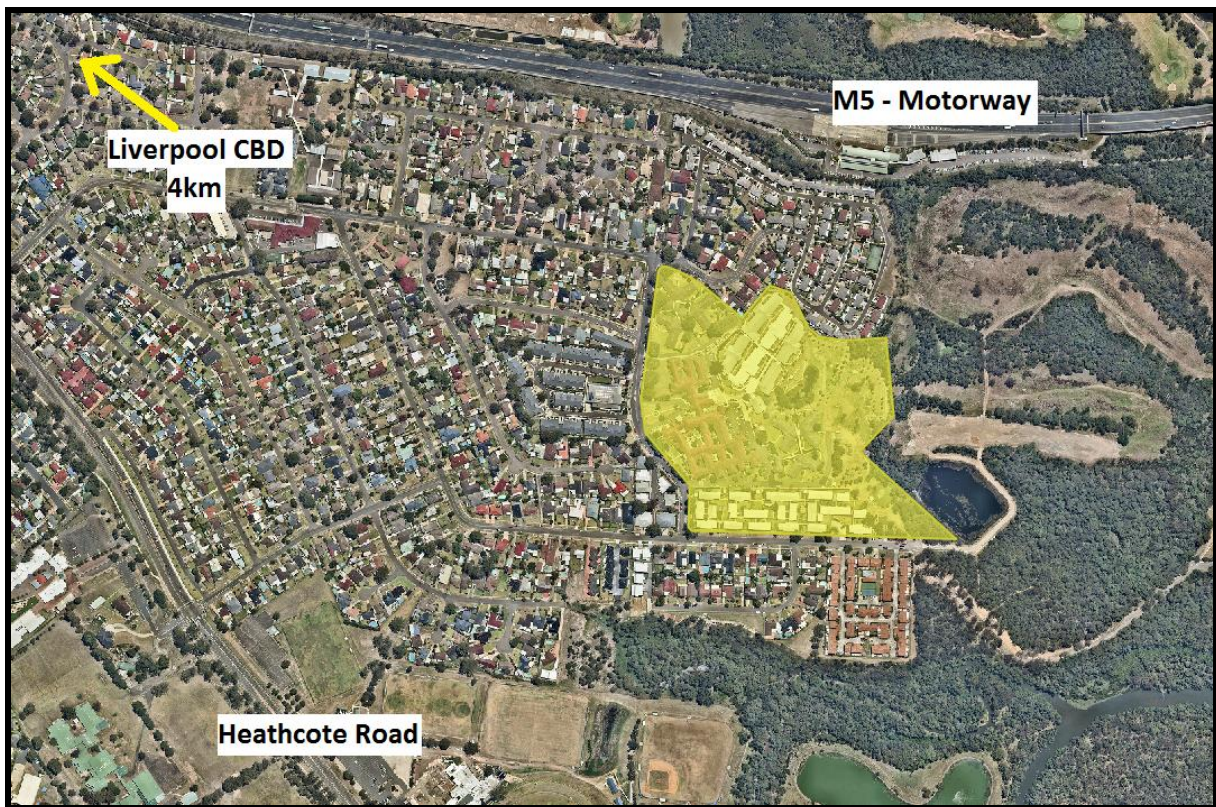


Figure 8: Aerial photograph of the Locality

The suburb of Hammondville is bound by Bankstown Council to the east, the suburbs of Holsworthy to the south, Wattle Grove to the west and Moorebank to the north. Immediately adjoining the subject site to the east is a golf course and public reserves located along the west bank of the Georges River. The immediately adjoining suburban area is to the north, south and west. The M5 Motorway is to the north, whilst Heathcote Road to the west. The subject site is located approximately 4km south-east of the Liverpool CBD.

2.3 Site affectations

The subject site has number of constraints, which are listed below:

2.3.1 Heritage

The subject site is listed as an item of local heritage significance in Schedule 5 of the Liverpool LEP 2008 known as Hammondville Home for Senior Citizens Item No.29. The site is listed for its social and cultural heritage significance and contributions to the community and not for its built form or design/architectural expression.



Figure 9: Heritage Listing

2.3.2 Flooding

The proposed development is partly located on flood prone land. Accordingly, the DA was referred to Council's Flood Engineers for comments.

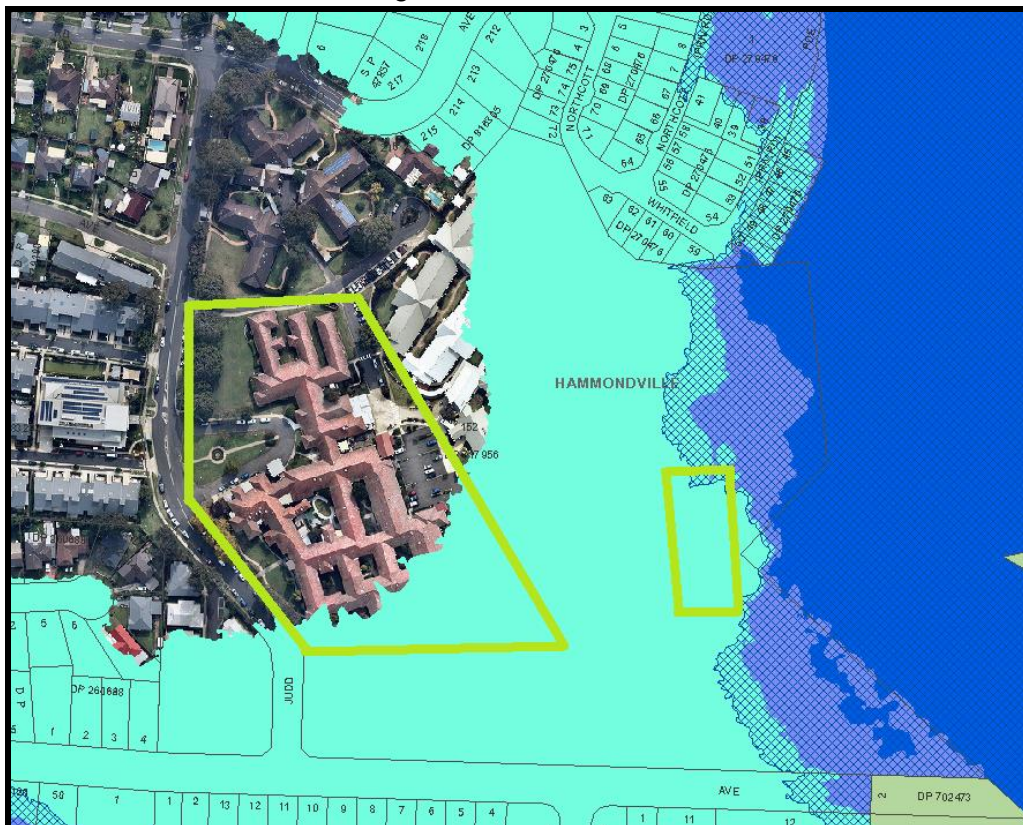


Figure 10: Flood Affectation with development site outlined in green

2.3.3 Bushfire

The subject site is partly located within Bushfire buffer zone. The developable area, excluding the at-grade car park, is not on bushfire prone land.



Figure 11: Location of upgraded facility outlined in green shown outside of Bushfire prone land

2.3.4 Environmentally Significant Land

The subject site is partly identified as being Environmentally Sensitive Land. The developable area, excluding a small portion of the at-grade car park, is not on land identified as environmentally sensitive.



Figure 12: Environmentally Sensitive Land highlighted in green and subject site with yellow overlay

3. DETAILS OF THE PROPOSAL

The subject development application is seeking approval to upgrade the existing aged care facility at the subject site. The details of the proposal are as follows:

Demolition:

The proposal involves the demolition of the existing aged care facilities, known as Trigg House, Poate Home, Lavender Unit and Jones and Shaw Hostels, with partial demolition of Bond House (refer to Figure 3 above for details). These building make up part of the aged care facility at the site and are proposed to be demolished in order to provide for an upgraded aged care facility at this part of the site.

Upgraded Aged Care Facility:

The development comprises a series of eight single storey 'cottage' buildings centred around a refurbished Bond House which will act as a Community Hub and office for the facility. A larger three storey building situated in the south eastern portion of the Bond House complex will cater to high care residents.

Overall the facility will provide 155 beds and approximately 9,604m² of GFA (a net increase of approximately 830m²). Each single storey cottage will have 10 beds and the remainder of residents will be housed within 9 cottages comprising the new 3 storey building. The separation of residents into small-scale, home-like cottages, is a key design intention of the project. This facility has been specially designed by the projects architect to respond the needs of dementia patients that require varying levels of care by incorporating modern approaches and understanding to dementia living to create a non-institutional environment for future occupants. The Architectural Design Statement submitted by the applicant provides a comprehensive explanation of the design strategies implemented in the proposed buildings, which are structured around contemporary ideologies in quality dementia care provision. The following figure, Figure 13, shows the layout of buildings within the upgraded Bond Complex.

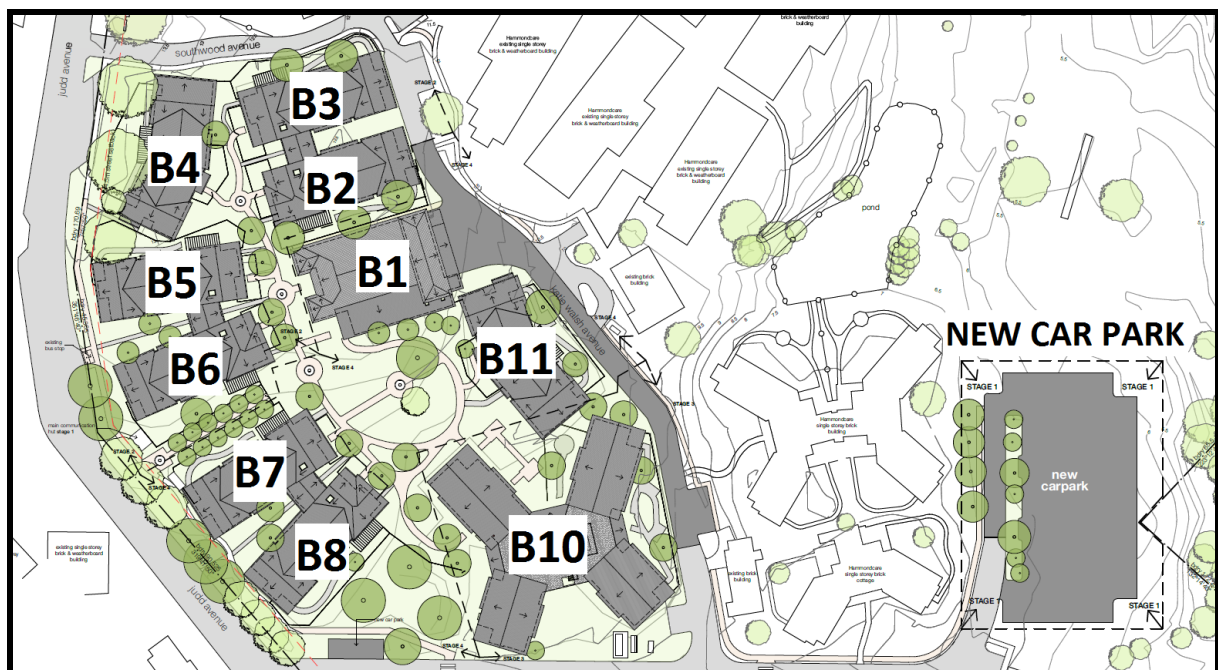


Figure 13: New building proposed onsite and at-grade car park

Building 1:

Bond House will be partly demolished and refurbished to form a central community hub for the residents of the surrounding cottages. The building shall incorporate an existing chapel, a seating area, hairdresser, multi-function room, reception area, administration area and an office on level one.



Figure 14: Internal western elevation of Bond House

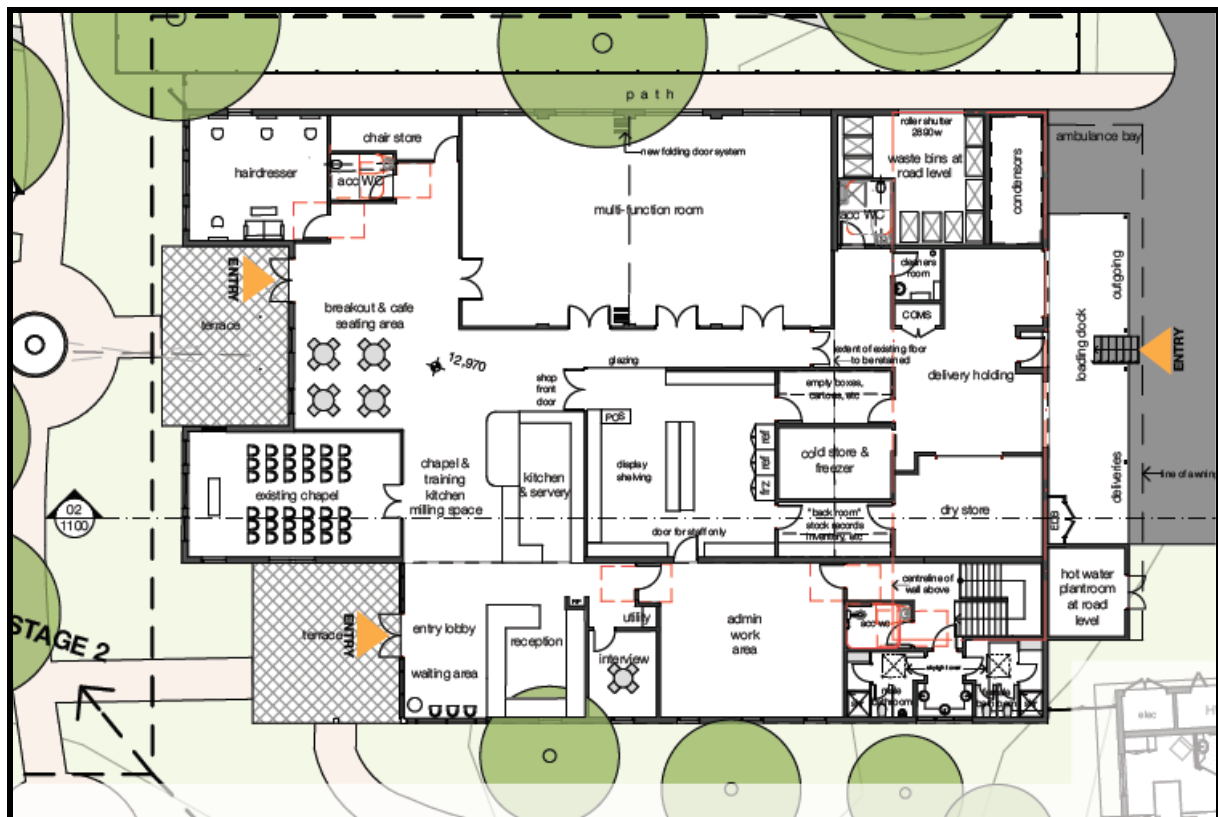


Figure 15: Ground floor plan of Bond House

Buildings B2, B3, B5, B6, B7 and B8:

Buildings B2/B3, B5/B6, and B7/B8 are the same development typology, being single storey cottages attached by an enclosed walkway between the two buildings, with a pitched roof form reaching 6.2m in height. These buildings will each provide ten single rooms with ensuites (a total of 60 rooms), and are each supported by a communal kitchen and dining space, lounge room, sitting area and secure back garden with a fenced front garden. These

buildings will cater for lower care residents. An indicative graphic rendering of the proposed building is shown at Figure 16.



Figure 16: Perspective Render of Buildings 5 and 6, eastern elevation

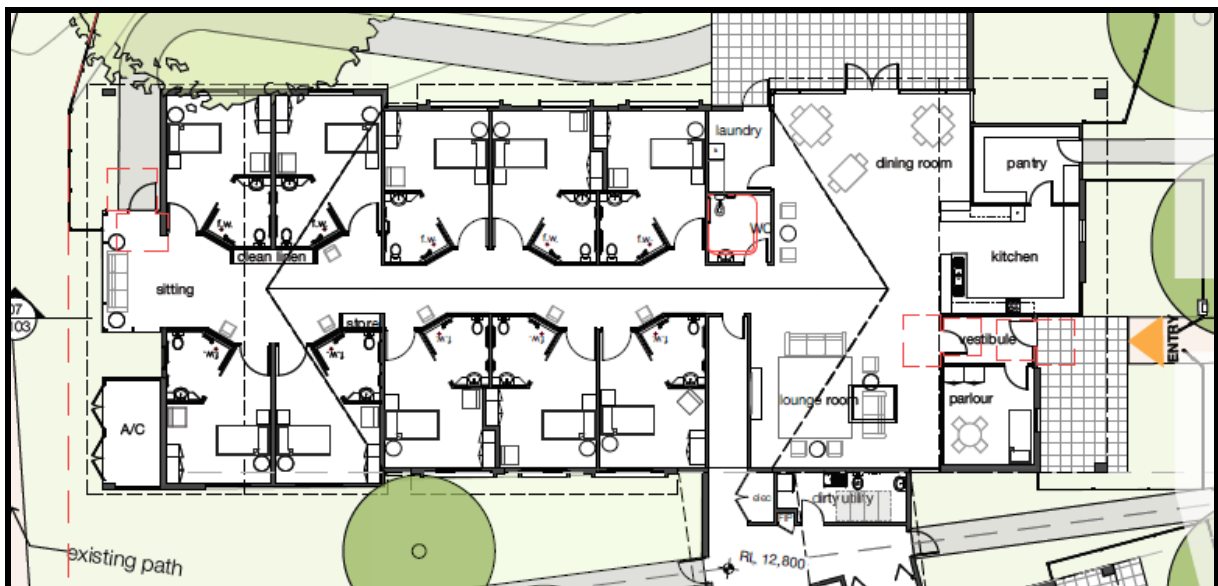


Figure 17: Ground Floor Building 5, typical floor plate for B2, B3, B5, B6, B7 and B8

Buildings B4 and B11

Buildings B4 and B11 are also the same development typology, being single cottages separated into two wings with communal facilities in the centre. The buildings will have a pitched roof form reaching 6.2m in height. These buildings will each provide ten single rooms with ensuites (20 rooms total), and are supported by an open plan sitting, dining and kitchen area, additional sitting rooms at the end of each wing, and a secure back garden with a fenced front garden. An indicative graphic rendering of the proposed building is shown at Figure 18.



Figure 18: Perspective Render of Building 11, western elevation



Figure 19: Ground Floor Building 4, typical floor plate for B4 and B11

Building 10:

Building B10 is three storeys in height reaching 13m to the top of the roof, and comprises of four wings radiating from a central space containing communal and administrative facilities over a single floor of basement car parking accommodating 33 cars including two accessible spaces. An indicative graphic rendering of the proposed building is shown at Figure 20.



Figure 20: Perspective Render of Building 10 from Thomas Avenue, west elevation



Figure 21: Ground Floor Building 10



Figure 22: First Floor (Left) and Second Floor (Right) of Building 10

Car Parking:

The proposed development will be serviced by the following on-site car parking:

- The existing at-grade car park located at the rear of the Jones Hostel (containing 42 parking spaces) will be demolished and replaced with a new hard-stand car park providing 90 car parking spaces including 4 disabled spaces. This new car parking area will utilise presently undeveloped land in the east of the site. See figure 23 below.
- A small at-grade car park providing for 11 vehicles will be retained along Katie Walsh Avenue.
- A single level of basement car parking accommodating 33 cars including two accessible spaces under building B10.



Figure 23: At grade car park layout on eastern portion of the site (amended design)

Fencing:

Those buildings housing high-care residents will be partially bordered by 1.8m security fencing, enclosing the communal outdoor area for residents. This ensures the residents remain safe and secure within the aged care facility. The remaining facilities fronting Judd Avenue are partially enclosed with a 0.9m garden fence for natural territorial enforcement where the development fronts the public domain.

Landscaping:

The proposed built form of the development comprises a series of cottages centred around the Village Green, which provides a large open space for passive recreation, a children's playground and a feature tree (see Figure 24 below). The Village Green is accessible via a network of easy-access paths (which avoid steep gradients and are free from obstructions (such as drainage inlets) leading to each cottage. An entry walk lined with deciduous feature trees connects Judd Avenue to the Village Green.

The landscape design incorporates water sensitive urban design treatments, including a Gross Pollutant Trap and a bio-retention basin to control the quality of water leaving the site.



Figure 24: Landscaping Design of the upgraded facility and at-grade car park

Operation:

As a managed residential care facility, the development will operate 24 hours a day with the main shift times being:

- 06:00 – 14:00;
- 14:00 – 21:00; and
- 21:00 – 06:00.

There will be approximately 81 staff present over the entire HammonCare Facility site at any one time, however at the crossover of shifts there may be up to 130 staff present for

approximately 1 hour due to handover briefings. The proposed facility will have the ability to accommodate up to 155 residents. A plan of management has been submitted in support of the proposal.

Stormwater:

To accommodate for the proposed development, the following stormwater system is proposed:

- a roof drainage system and in-ground piped network that will be sized to collect and convey the 10-year ARI flow rate;
- a surface drainage system which involves the flow of stormwater through a series of stormwater pits located within landscaped areas;
- the majority of the site will discharge into the existing dam to the east of the site and be reused for irrigation purposes;
- the dam has an existing overflow pipe which discharges into an existing rock filled stormwater trench that subsequently drains to the nearby creek; and
- a portion of the site at the south east will discharge into the existing kerb inlet pits.

On-site Detention is not required for the site as the amount of impervious area will be less than the existing development.

Staging the Development:

The envisaged development works described above will be completed over four stages, to isolate the potential impacts of construction and to allow new accommodation and facilities to commence or continue operation on site while other works are being delivered. Specifically, the stages comprise of:

- Stage 1 – the construction of the new at-grade car park in the south east of the site;
- Stage 2 – the demolition of the northern portion of the existing buildings on site and the construction of buildings B2, B3, B4, B5, and B6 (50 beds);
- Stage 3 – the demolition of the southern portion of the existing buildings on site and the construction of building B10 (75 beds);
- Stage 4 – the demolition of the central portion of the building and the construction of building B7, B8 and B11 (30 beds), including works to the retained reception building and six at-grade car parking spaces fronting Thomas Avenue.

4. BACKGROUND

4.1 Design Excellence Panel Briefing

The application was considered by the DEP on 16 February 2017. In accordance with the DEP Charter the DA was referred to DEP as it involves development for, “a new building or major extension to existing development adjacent to the Georges River or environmentally sensitive land”. The DEP were generally supportive of the DA subject to consideration by the applicant of the following:

“The proponent provided a detailed description of the model of care underlining the proposed design, this is specifically targeted at patients with some level of dementia and takes the form of single storey “cottages”.

- 1) *The Panel supports the cottage approach including presentation of narrow cottage ends to Judd Ave to provide a domestic building scale in keeping with housing opposite.*
- 2) *Buildings B2 and B3 are considered to be too close together and a review of the location to improve amenity of the rooms between the two should be explored. The “splayed” wings of Buildings B5/B6 and B7/B8 provide a better outcome.*
- 3) *The Panel supports the three storeys for building B10 noting that it is located on the low point of the site and inboard from the public domain, does not significantly overshadow the existing two storey buildings to the south, and is also partially screened by landscaped earth mounding and planting.*
- 4) *The Panel notes that FSR is below allowable. Building B10 is above the allowable height however it is the Panel's understanding that the application will be submitted under existing use rights and therefore LEP heights are not a consideration.*
- 5) *The Panel accepts heritage concerns in regards to social significance have been adequately addressed by the continuing use for aged care of the site.*
- 6) *The Panel supports the landscaping approach, in particular the retention of street trees on Judd Ave and the introduction of a village green. Improved landscaping is required between buildings B2 and B3. Improved landscaping is required to the main car park including introduction of WSUD strategies and increased large tree planting.*
- 7) *The Panel supports additional tree planting along Judd Ave.*
- 8) *The Panel strongly supports reuse of existing building materials from demolition including bricks, tiles, and roof timbers.*
- 9) *The Panel would strongly support any initiative to improve access to Lieutenant Cantello Reserve, potentially in combination with carpark works*

The proposal is acceptable subject to the incorporation of the above advice given from the panel and will not need to be seen by the panel again.

In the event that amended plans are submitted to Council to address the concerns of the Design Excellence Panel the amended plans should be considered by Council.”

The applicant has provided responses to the DEP comments as follows:

Point 2 & 6:

“Buildings B2 and B3 are an integral part of this proposed development and cannot be reduced as their included bed numbers and associated support areas are important to Hammond Care’s operational sustainability.

The wings to these buildings are parallel rather than splayed in response to physical constraints in this north-eastern area of the site due to the retention of the B1 Bond Building to the south (as part of the heritage strategy of the redevelopment) and Southward Avenue to the north. To maximise this restricted area and offer better amenity to nearby residents, an existing gas enclosure in the north-east corner has already been re-located to the north side of Southward Avenue.

The outside areas on the north and south sides to buildings B2 and B3 are secure backyards. The distance between the B2 wing external wall faces to the proposed fence line opposite the Bond Building are approximately 6.4m and 8.6m respectively. A similar distance to the B3 wing fence line occurs to the north. These secure backyards cannot be reduced without impacting the amenity of the residents. The internal open area between buildings B2 and B3 will be occasionally accessed by service personnel and provides natural light, air, privacy and a pleasant outlook for residents from their rooms. The distance between the two

internal wings of buildings B2 and B3 are approximately 5.9m towards the ends and 7.3m in the middle. We note the average 6.6m separation is more than double the minimum 3m separation set out in the BCA.

The attached sketch section shows the proportion and scale of this separation (Figure 25). Given the mobility constraints of the residents, who will be predominantly seated or in bed when in their rooms, we believe the current configuration is acceptable. However, we agree with the DEP's comments that landscaping can be augmented as described below.

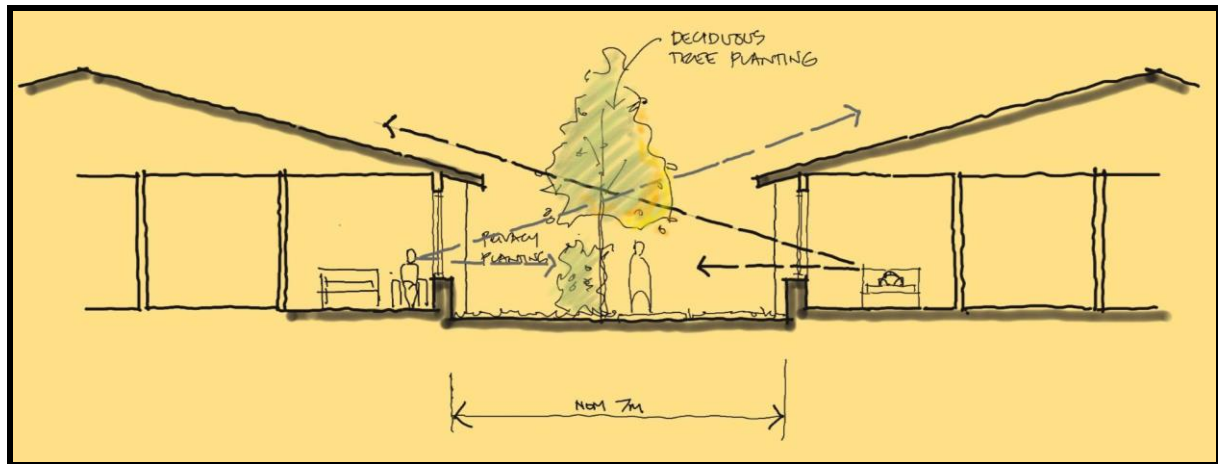


Figure 25: Additional landscaping between B2 and B3

It is proposed to improve the landscaping between Buildings B2 and B3 by adding a flowering hedge screening to 1500mm height, three new deciduous trees and ground covers. This is shown on the attached landscape drawings. The planting will improve the outlook and privacy for residents of these buildings.”

Point 6:

“After receiving comments from the DEP, HammondCare met with the local Independent Living Unit (ILUs) residents and there was agreement to carry out the following improvements to the Stage 1 carpark area in response to their concerns. It is proposed to:

- a) Increase the total length of the carpark towards the north by 3 metres to accommodate 3 x 1 metre wide landscaped areas between the parking bays. A continuous canopy of shade trees will be planted in these areas.
- b) Amend the two way traffic flow to one way, with a car park entry at the northern end and continuing in a clockwise direction.
- c) Provide signage to show rear to kerb parking for the southernmost parking bays. This will minimise headlight glare directed towards the adjacent residents.
- d) Provide a landscape buffer with selected native screening and shrub planting, to screen light spill from the carpark.
- e) Retain existing healthy trees and plant additional semi-mature native trees immediately south of the carpark area, to further screen the carpark from adjacent neighbours.

The WSUD strategies are summarised in the Civil Engineers Civil & Stormwater Design Report previously submitted. Updated architectural, civil and landscape drawings reflecting these proposed improvements are attached.”

Point 8:

“Where possible and feasible, existing building materials will be reused in the new construction, especially in the alterations and additions works to Building B1 (Bond House).

Following our DA submission, we have found out that the existing bricks cannot be recycled due to their post 1950's construction and use of cement mortar from thereon. It is therefore proposed to match the existing Bond House face bricks in new construction. Advice from 'The Brick Pit', a reputable local supplier of premium recycled brick and the updated materials and finishes schedule (Dwg No. DA9600 (Issue D) are attached."

Point 9:

"An informal, crushed granite path is now proposed to continue from the existing pedestrian pathway at the western end of Thomas Avenue to the Lieutenant Castello Reserve boundary. This is shown on the attached updated landscape plans."

With regards to the above response from the applicant to the DEP commentary, it is considered that the applicant has adequately addressed the issues raised by the DEP, and the proposal is considered acceptable.

4.2 Planning Panel Briefing

A briefing meeting was held on the 22 May 2017. The main outcomes of the briefing meeting with the Panel are summarised below:

1) Clause 4.6 – Justification for variation to Clause 4.3 – Height of Buildings to the Liverpool LEP 2008

Panel is generally supportive of the height of Building 10 being 13m above ground level, however, raises concern regarding height of this three-story building in context of adjoining existing buildings. Applicant to confirm the height of building within the independent living units south of the proposed development onsite.

Applicant's response:

"The surveyed ridge height of the two storey Independent Living Unit residences on the south side of Thomas Avenue, located opposite Building 10, are at RL 16.62 and RL 16.60. Their respective gutter levels are at RL 14.62 and RL 15.54 respectively. This is compared to the maximum height of Building 10 at RL 23.20m. As detailed at Section 4.4 of the SEE, the height of Building 10 is situated at a lower point of the site and therefore it does not present as a dominant feature of the streetscape, particularly when viewed from Judd Avenue."

Comment: Building height of Building 10 is considered acceptable in the context of the surrounding buildings and is discussed further in Part 6 of this report (see SEPP (Housing for Seniors or People with a Disability) 2004 assessment).

2) Design Excellence Panel Comments

The Panel raises concern that the DA should adequately consider the comments raised by the DEP. The DEP comments have been discussed in section 4.1 of this report, above. The DA is considered acceptable with regards to the DEP comments.

3) Relationship between units – car parking spaces, number of beds

4) Managing the shift change – plan of management to be submitted

The Panel raises concern regarding the relationship between the proposed upgraded facility with the increase number of beds and the amount of car spaces proposed to service the upgraded facility. Panel raises concern for managing shift changes and parking onsite.

Applicant's response:

One of the primary reasons for the location and size of the proposed car park is to take pressure off Judd Avenue. Judd Avenue is also serviced by a regular bus route.

Pedestrian access up and down Judd Avenue includes residents from the broader HammondCare site as well as school children. HammondCare would prefer to direct staff and visitor day time parking from this road to the proposed at-grade parking. This will ensure safer pedestrian movements up and down Judd Avenue.

Despite not technically applying to the development, it is noted that the proposal complies with the parking requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 which is a standard that cannot be used to refuse development consent for residential care facilities.

Furthermore, it is important to note that the proposed at-grade carpark will be used predominately in day light hours and will not solely accommodate staffing requirements for any one shift. It has been sized to meet the needs for two groups:

1. Staff: approximately 81 staff will be working within the new buildings during any day time shift.

- Staff that currently park around the existing building along Judd Avenue will be directed during day time hours to the proposed at-grade carpark.*
- The amount of parking provided also accounts for the crossover of shifts during which time the staff finishing their shift brief the incoming staff. This increases the demand for parking for specified periods.*

2. Non-staff: these numbers fluctuate on any given day but put pressure on existing car parking around the Hammondville site. These 'non-staff' visitors will be directed during day time hours to the proposed at-grade carpark.

- Staff education: the site facilitates daily training events that often bring staff from other HammondCare locations to the site.*
- External visitors: HammondCare often welcomes both local and international guests to visit its services.*
- Volunteers: the local community have always been significant supporters of the services at Hammondville. There are daily visits from volunteers to the site.*
- Dignitaries: site visits from local council, state and federal governments will hold special events and tours of HammondCare services.*

Night time parking requirements on the Hammondville site are significantly less.

- Staff and visitors will be directed to the basement parking of the proposed building 10.*
- Staff and visitors for existing services on-site will continue to use current parking in and around those services.*
- The carpark can also be time restricted if unauthorised access is occurring at night-time hours.*

Whilst the concern of light spill has been addressed in the car park design, the reality is that car parking in the proposed at-grade carpark will be infrequent during the night.

Comment: The development is considered acceptable in relation to the amount of spaces proposed as per the justification provided by the applicant above and as discussed further in Part 6 of this report.

The development is also considered acceptable in relation to the management of staff and shift changing as per the justification provided by the applicant above. It should be noted that shifts typically occur daily at 06:00 – 14:00, 14:00 – 21:00 and 21:00 – 06:00 and it is predicted that there will be up to 81 staff within the new facility at any one time. The applicant has provided a total of 134 spaces, with 90 spaces within the at-grade car park, to service the upgraded facility. Accordingly, there is considered to be sufficient

additional parking within the 134 spaces proposed at various parts of the site to accommodate any transitions between shifts and to capture any additional parking demand at these times, while still servicing any visitors to the premises. While the parking area is in excess of the Seniors Housing SEPP and Council's DCP requirements, it is not considered to be any over provision of parking, as the applicant has stated that the intention is to decrease parking demands along Judd Avenue. Furthermore, the size of the at-grade car park is not considered excessive, where it would be shifted an additional 5m to the north, to provide sufficient separation and screening to the southern Independent Living units. See Part 6.9 of this report for further discussion of the recommendation to shift the proposed at-grade car park 5m to the north.

5) Existing use rights – scale of the increased use (GFA)

6) Permissibility - check the threshold for existing use rights

Panel raises concern regarding existing use rights and the increase of GFA at the site.

Applicant's response:

The following table provides a summary of the GFA and bed numbers of the existing and proposed development. This represents a moderate increase to the capacity of the facility which is required in order to achieve a critical mass of patients to support the redevelopment of the old facilities and the associated level of care and resident support facilities to be provided.

It is noted that the expansion of the facilities is only related to the approved seniors housing use and the land in which the use has lawful development consent for. This is consistent with the requirements of existing use rights at clauses 42 of the Environmental Planning and Assessment Regulation, 2000. Note that clause 41 only restricts the expansion under existing use rights for commercial and industrial uses and there is no such restriction applying to seniors housing.

	Existing	Proposed	Net Difference	% Difference
GFA	8,774m ²	9,604m ²	+ 830m ²	9.4%
Beds	124	155	+ 31	25%

Comment: The development is considered acceptable with regards to the proposed increase in gross floor area at the site in accordance with the provision for Existing Use Rights. A further discussion of Existing Use Rights and gross floor area is provided in Part 6 of this report.

7) Trees on site (retaining number of trees and removal of number of trees)

8) Car park area – light spill on current residents, noise mitigation

9) Potential noise impacts to neighbouring properties if car park is relocated

Panel raises concern regarding the location of the proposed at-grade car park. Council recommends that the applicant relocate the at-grade carpark to a currently unused portion of the site, north of the proposed at-grade carpark location in order to preserve vegetation, the community garden and the general amenity for occupants of the independent living units adjacent the proposed parking area. Where the car-park is relocated to the north the applicant shall provide information demonstrating this will have no impact on the neighbouring residential area to the north by way visual privacy, acoustic privacy and lighting impacts. Any relocated car park area should take into consideration environmentally sensitive land onsite. Where the applicant does not wish to relocate the at-grade car park, the applicant shall provide sufficient information regarding why the proposed location is required and information demonstrating how it is an appropriate location in the circumstances. The panel has raised concern regarding light spill impacts to the independent living units from the operation of movement of vehicles within the proposed at-grade carpark.

Applicant's response:

The design of the proposed carpark has been amended in response to concerns raised by residents of the Independent Living Units during the public exhibition of the proposal. It is considered that these amendments to the car park design also address the concerns expressed by the panel at their briefing on 22 May 2017.

In summary, the following amendments were made to mitigate any potential impacts, in particular light spill, of the proposed car park:

- Water gum trees with an understory of blue mat rush have been introduced between each parking bay to provide a substantial tree canopy over the car park and to block vehicle headlights;*
- no net loss of trees will occur to the south of the carpark and additional trees will be planted in this location to provide a visual buffer to the adjacent accommodation (which is located some 30m away from the car park);*
- a one-way system has been introduced which directs headlights away from neighbouring properties;*
- rear-to-kerb parking will be required at the southernmost end of the car park to prevent light spill; and*
- the car park will primarily be used during daylight hours (refer to Section 2 below).*

Moving the car park further north is not considered a better planning outcome as this would:

- put it in the location of the overflow path from the dam;*
- require lengthening the access road and relocating two existing sewer pump-out pits and a switch box, unnecessarily adding to project costs and site constraints; and*
- discourage its use by staff and visitors. From HammondCare's discussions with a sample of staff, they have indicated that locating the carpark into this 'northern' zone will discourage its use due to increased distances for staff and visitor access. This will place additional pressure back on to Judd Avenue and the surrounding streets.*

The proposed carpark location is necessary to ensure that carparking for staff and visitors to the site is provided in an accessible location. The amended carpark design was developed in consultation with the residents of the Independent Living Units to mitigate any potential impacts on the adjacent property.

Comment: While the applicant's justification for completely relocating the at-grade car park to the northern portion of the undeveloped part of the site is noted, it is recommended that the at-grade car park be further amended by the applicant to be shifted 5 metres to the north of its current proposed location. This is discussed further in Part 6.9 of this report and is made in response to objections received by residents in the locality. The other amendments to the carpark including the retention of trees, amended landscaping design and change of vehicle circulation paths proposed by the applicant are considered acceptable, which is also discussed further in this report.

10) Consideration of appropriate width footpaths throughout the development

Panel raises concern for proposed footpaths to service the development.

Applicant's response:

The proposed footpath from the carpark to Thomas Avenue and the main development site is currently shown on the DA plans as approximately 1,500mm wide and internal paths within the main development site are approximately 1,800mm wide. It is noted that

this is wider than the existing footpath on the south side of Thomas Avenue and existing paths within the main development site which are only approximately 1,150mm to 1,200mm wide.

The BCA and Access Assessment report prepared by Blackett Maguire+Goldsmith confirms that the compliance with D3.2 – General Building Access Requirements for People with Disabilities is achievable. This clause required appropriate access ways to be provided to access buildings from the site boundary.

Comment: The development is considered acceptable with relation to the footpaths servicing proposal. Conditions are recommended to ensure appropriate footpaths and footpath lighting is provided to service the development. This is discussed further in the Part 6 of this report.

Accordingly, the development is considered acceptable in light of the matters raised by both the DEP and the SSWPP, and the responses and design changes provided by the applicant. Further discussion of matter raised by the DEP and SSWPP are discussed in Part 6 of this report.

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy No.55 – Remediation of Land.
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;
- Liverpool Local Environmental Plan 2008.

Draft Environmental Planning Instruments

- No draft Environmental Planning Instruments apply to the site.

Development Control Plans

- *Liverpool Development Control Plan 2008*
 - Part 1 – Controls applying to all development

Contributions Plans

- The Liverpool Contributions Plan 2009.

5.2 Zoning

The site is zoned R2 – Low Density Residential pursuant to LLEP 2008 as depicted Figure 26 below.

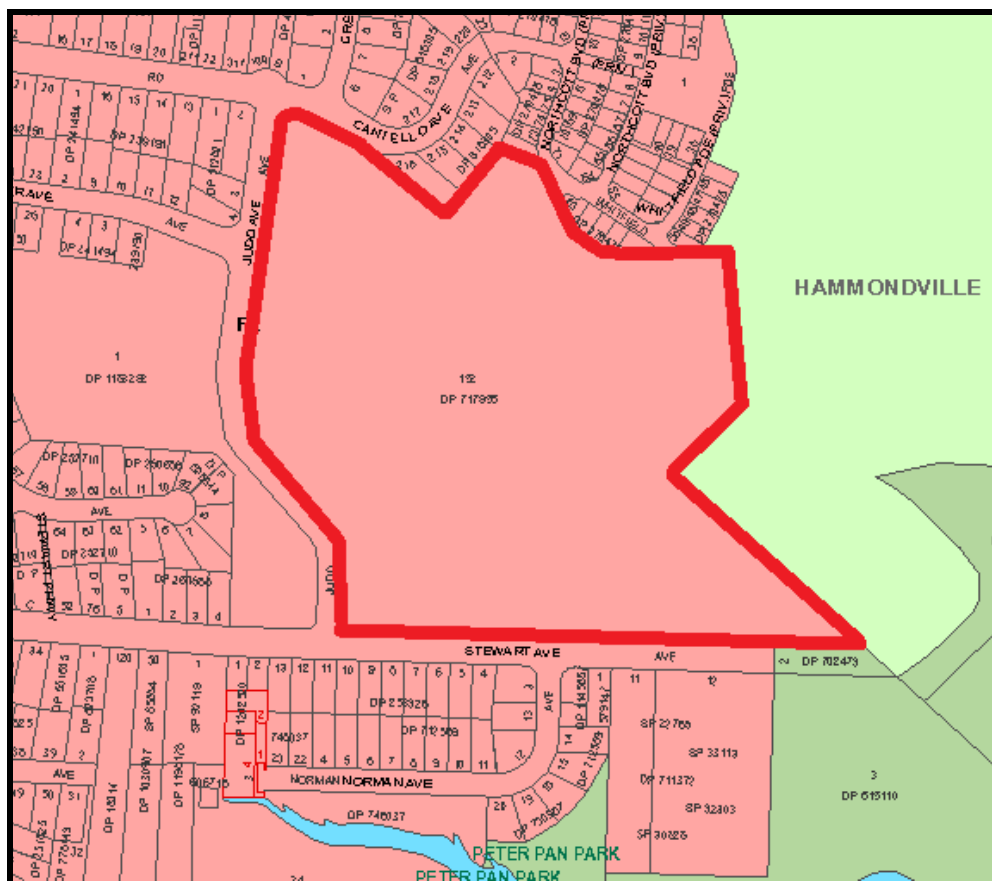


Figure 26: Zoning of subject site

5.3 Permissibility

The proposed development is best described as ‘Seniors Housing’, which is defined as follows:

“seniors housing means a building or place that is:

- (a) a residential care facility, or*
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or*
- (c) a group of self-contained dwellings, or*
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),*
and that is, or is intended to be, used permanently for:
- (e) seniors or people who have a disability, or*
- (f) people who live in the same household with seniors or people who have a disability, or*
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,*
but does not include a hospital.”

Seniors Housing is not permitted in the R2 zone as per the LLEP 2008. Notwithstanding this, Part 4 – Land to which Policy applies of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, provides the following:

*“(1) **General** This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:*

(a) development for the purpose of any of the following is permitted on the land:

(i) dwelling-houses,

(ii) residential flat buildings,

(iii) hospitals,

(iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or

(b) the land is being used for the purposes of an existing registered club.”

In accordance with the above, the proposed development would be typically permitted in the zone as the SEPP (Housing for Seniors or People with a Disability) 2004 takes precedence over the LLEP 2008. However, Part 4 – Land to which Policy applies of the SEPP (Housing for Seniors or People with a Disability) 2004, subclause (6) provides that:

“This Policy does not apply to:

(a) land described in Schedule 1 (Environmentally sensitive land),”

As the development does encroach onto land that has been identified as being environmentally sensitive as per the LLEP 2008, the SEPP does not technically apply to the proposal. Accordingly the proposal would need to rely on Existing Use Rights for development consent.

Existing Use Rights:

In accordance with the Environmental Planning and Assessment Act 1979, Section 106, the definition of existing use is as follows:

*“In this Division, **existing use** means:*

(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4 of this Part, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and

(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.”

In addition to the above Section 107, clause (3) provides that:

“(3) Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.”

Accordingly, the test of the existing use would be that consent was granted prior to the commencement of the provision prohibiting the use, the development has been carried out within a year after the date to which the provision prohibiting the use commenced and that it has not been abandoned or ceased to be used for a period of 12 months. The applicant has provided evidence in support of the application being considered under existing use rights, see Figure 27 below. Figure 27 demonstrates that the use of the site was approved for a lawful purpose and this has been continued for this purpose, uninterrupted, at the site since 1953.

The applicant has stated in their Statement of Environmental Effects that the aged care use of the site was permissible at the time of each approval and remained so up until the introduction of the LLEP 2008, which prohibited seniors housing in the R2 – Low Density Zone.

Section 108 of the Act, provides that:

“(1) The regulations may make provision for or with respect to existing use and, in particular, for or with respect to:

- (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*
- (b) the change of an existing use to another use, and*
- (c) the enlargement or expansion or intensification of an existing use.”*

Section 41 and 42 of the Environmental Planning Regulations 2000 permit an existing use of this nature subject to an application, to be enlarged, expanded, intensified, altered, extended and rebuilt with development consent. Accordingly, the applicant has lodged the subject application seeking development consent to upgrade and expand the existing facility.

The applicant has provided an assessment of the proposal against the Land and Environment Court (LEC) Planning Principles relating to existing use rights as formed in *Fodor Investments v Hornsby Shire Council (2005)* within the submitted statement of environmental effects. The principles include:

- *How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites? – **The proposed bulk and scale of the development is considered acceptable. This is discussed in Part 6 of this report.***
- *What is the relevance of the building in which the existing takes place? – **No change of use of the existing use proposed.***
- *What are the impacts on adjoining land? – **The potential impacts to adjoining land are considered acceptable. This is discussed in Part 6 of this report.***
- *What is the internal amenity? – **The development has been assessed against the provisions of the SEPP (Housing for Seniors or People with a Disability) 2004 and is considered acceptable with regards to internal amenity. This is discussed in Part 6 of this report.***

The development is considered acceptable in relation to the LEC planning principles for proposals on land with existing use rights.

Consent Reference	Description of Land	Description of Work	Applicant	Date Approved
DA 10/63 D592	Portion 36, DP 18314, Stewart Ave, Hammondville	Erection of a nursing home	Hammond's Pioneer Homes	17 September 1953
CCC 4113	Portion 36, DP 18314 of which Lot 6 DP 241494 is a re-subdivision	Erection of a nursing home	Hammond's Pioneer Homes	17 September 1953
CCC 7713	Portion 36, DP 18314 of which Lot 6 DP 241494 is a re-subdivision	Erection on the land of a building containing 3 single person dwellings for old age pensioners	-	7 December 1954
CCC 9723	Portion 36, DP 18314 of which Lot 6 DP 241494 is a re-subdivision	The extension of the existing nursing home	-	22 March 1956
CCC 13271	Portion 36, DP 18314 of which Lot 6 DP 241494 is a re-subdivision	Erection of a new wing to the Matron Shaw Nursing Home	-	8 May 1959
600/61	Portions 47, 36 and 50 of which Lot 6 DP 241494 is a re-subdivision	Erection of additions to nursing home	-	30 November 1961
258/63	Portions 47, 36 and 50 of which Lot 6 DP 241494 is a re-subdivision	Additions to existing nursing home	-	27 August 1963
1463/70	Portions 47 and 36 of which Lot 6 DP 241494 is a re-subdivision	Erection of a nursing home for the aged	-	14 December 1970
450/74	Lot 6 DP241494	Alterations and additions to internal walls for office within existing Judd Home	-	25 July 1974
862/80	Lot 6 DP241494	Erection of addition to existing bathroom area of nursing home	-	22 August 1980
166/81	Lot 2 of re-subdivision 6, DP 241494 Judd Ave, Hammondville	Extension to nursing home	Hammond's Pioneer Homes	23 March 1981
7/93	CNR Lot 152 DP717956	Erection of 40 bed residential dementia care hostel	-	23 April 1993
282/97	CNR Lot 152 DP717956	Demolition of 6 buildings and erection of aged care residences and administration cottage	The Hammond Care Group	25 November 1996
229/2006	CNR Lot 152 DP717956	84 bed residential aged care facility	The Hammond Care Group	3 March 2006
623/2007	CNR Lot 152 DP717956	Minor addition to Bond Building	The Hammond Care Group	6 February 2007

Figure 27: Table of approvals for the Residential Aged Care Facility at the site

With regards to the above, the development is considered to rely on Existing Use Rights and therefore the development application can be determined by the consent authority as per Section 108 of the Act.

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 79C of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000 as follows:

6.1 Section 79C(1)(a)(1) – Any Environmental Planning Instrument

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

In this circumstance, the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP) does not apply to the subject development application as it relies on existing use rights in respect to permissibility. However, the applicable provisions contained in the Seniors Housing SEPP have been considered as part of the assessment of the proposal and are detailed in the table below.

Provisions	Proposal	Compliance
<p>26 Location and access to facilities</p> <p>Site must have access to shops, banks and commercial services, medical services, community and recreation facilities.</p> <p>Site must have access to services such as shops, banks and commercial services, medical services, community and recreation facilities.</p> <p>Site must have access to services such as shops, banks and commercial services, medical services, community services etc.</p> <p>Bus services within 400m must be available to and from the site at least once between 8am to 12 noon per day and at least once between 12 noon and 6pm on weekdays.</p> <p>Access must be within 400m via a suitable access with gradient of no more than 1:14.</p>	<p>The aged care facility is located 400m from a local bus service. There are medical and commercial services provided within the HammondCares site for occupants of the aged care facility. The existing site is considered to have adequate access arrangements.</p> <p>As part of the proposal footpaths will be provided onsite in accordance with the BCA.</p>	Complies
<p>27 Bush fire prone land</p> <p>Land in the vicinity of bush fire prone land or vegetation buffer to consider general location of development, means of access to and egress from the general location and matters listed in (a) to (i).</p>	<p>The site is affected by bushfire along the eastern site boundary and the proposed upgraded aged care facility is outside of the bushfire prone land. The proposed at-grade car park is located on land mapped as being bushfire prone.</p> <p>Notwithstanding the aged car facility being outside of the bushfire prone land the DA has been referred to the NSW RFS for comments.</p>	<p>Complies.</p> <p>NSW RFS have raised no objection to the proposal subject to conditions.</p>
<p>28 Water and sewer</p> <p>Written evidence to demonstrate that housing will be connected to a reticulated water system and will have adequate facilities for sewage disposal.</p>	<p>Site is fully serviced for water and sewerage.</p>	Complies

<p>29 Site compatibility criteria</p> <p>A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).</p> <p>(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</p> <p>(ii) the impact that the proposed development is likely to have on the uses that, in the opinion of the Director-General, are likely to be the future uses of that land,</p> <p>(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</p> <p>(iv) in the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development,</p> <p>(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</p>	<p>(i) Site is an existing seniors housing facility. The impact on the natural environment would not be significant and measures are proposed for construction to minimise impacts. While the development encroaches onto land identified as being environmentally sensitive there is no proposal for the removal of vegetation on land identified for that purpose. Notwithstanding this, the DA was referred to Council's Natural Resources Planner for assessment.</p> <p>The natural resource planner stated that the car park is being proposed on land previously disturbed by development at the site and no further ecological consideration is required.</p> <p>(ii) Future land uses in the area are likely to be residential and park lands.</p> <p>(iii) Existing facilities are able to accommodate increased demand from new facility.</p> <p>(iv) No rezoning proposed.</p> <p>(v) Impact of the new and existing facility is minimised due to location of new building at the centre of the site. Development is considered to be of an appropriate height, bulk and scale in the context of the existing aged facility and aged care housing at the site. See more discussion below regarding the merits of the application to exceed the height standards.</p>	<p>Satisfactory</p>
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<p>(vi) if the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the Native Vegetation Act 2003—the impact that the proposed development is likely to have on the conservation and management of native vegetation.</p>	<p>(vi) Native vegetation proposed to be removed and replaced with new native planting as per the proposed landscape plan. The removal of trees the new vegetation to be planted has been assessed by Council's natural resource planner and tree removal officer who raise no objection subject to conditions. Tree removal is discussed in further detail in this report, see Part 6.7.</p>	
<p>30 Site analysis</p> <p>Submission of a site analysis and supporting statement identifying how the development has been designed having regard to site analysis required.</p>	<p>A site analysis has been included as part of the application.</p>	<p>Complies</p>
<p>32 Design of residential development</p> <p>A consent authority must not consent to a DA unless it is satisfied that the development demonstrates adequate regard to the principles of Division 2.</p> <p>A consent authority must not consent to a DA unless it is satisfied that the development demonstrates adequate regard to the principles of Division 2 (Clauses 33 to 39).</p>	<p>See clauses 33 to 39 below.</p>	<p>See below.</p>
<p>34 Visual and acoustic privacy</p> <p>Appropriate site planning, location and design of windows and balconies, screening devices.</p> <p>Locating bedrooms away from driveways, parking areas and footpaths to ensure acceptable noise levels.</p>	<p>The development is considered to be appropriately designed with regards to the placement of the windows and balconies, as the facility has been specifically designed to accommodate the needs of future dementia occupants of the buildings. Accordingly, the upgraded Bond House complex has been designed inwardly to encourage occupants to enjoy the Bond House complex without interacting with other parts of the greater HammondCare site.</p>	<p>Satisfactory</p>
<p>35 Solar access and design for climate</p> <p>Ensure adequate daylight to main living areas of neighbours and residents; and sunlight to private open space.</p> <p>Site planning to reduce energy and maximise use of solar energy and natural ventilation.</p>	<p>Neighbour's living areas are not considered to be unreasonably over shadowed by proposed buildings.</p>	<p>Satisfactory</p>
<p>36 Stormwater</p> <p>Control and minimise disturbance and</p>	<p>Stormwater design assessed by Council's Engineering staff.</p>	<p>Satisfactory</p>

impacts of stormwater runoff. Include on-site detention or re-use for second quality water uses.		
37 Crime prevention Provide personal property security for residences and visitors and encourage crime prevention.	The applicant has designed the building in accordance with the Crime Prevention Through Environmental Design (CPTED) principles. This will also form a condition of consent.	Satisfactory
38 Accessibility Provide obvious and safe pedestrian links from the site that provide access to public transport services or local facilities. Provide obvious and safe pedestrian links from the site that provide access to public transport services or local facilities. Provide attractive and safe pedestrian and motorist environments with convenient access and parking.	Accessibility report submitted with application provides recommendations to achieve access in accordance with DDA and BCA	Complies
39 Waste management Provide waste facilities that maximise recycling.	Waste facilities provided including recycling	Complies
40 Development standards minimum sizes and building height Site size: 1,000m ² minimum. Site frontage: 20m minimum. Height in residential zones where residential flat buildings are not permitted: 8m maximum (and maximum 2-storeys). Building located at rear 25% of the site must not exceed 1-storey.	Site size: 92.787 hectares Frontage: 370m to Judd Avenue Height: 13m Three stories No buildings in rear 25% of site	Complies Complies Considered Acceptable. See building height discussion below. Complies
48 Development standards that cannot be used to refuse development consent for residential		Does not

<p>care facilities</p> <p>Building height: if all buildings are 8m or less in height. Buildings exceed 8m in height but are satisfactory and comply.</p> <p>Density and scale: if density and scale when expressed as FSR is 1:1 or less.</p> <p>Landscaped area: if minimum 25m² of landscaped area per bed.</p> <p>Parking for residents and visitors: if at least:</p> <p>1 space per 10 beds (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia)</p> <p>1 space per 2 staff,</p> <p>1 ambulance space.</p>	<p>Height: 14m</p> <p>Three stories</p> <p>FSR: 0.34:1</p> <p>191m² per bed (319 beds over the entire Hammondcare facility with the inclusion of the proposed development)</p> <p>Required:</p> <p>Beds: 10.33 spaces</p> <p>Staff: 34.5 spaces</p> <p>Total Required: 44.83 or 45 spaces</p> <p>Ambulance: 1 space</p> <p>Proposed: 134 spaces and 2 ambulance spaces</p>	<p>meet requirement. See building height discussion below</p> <p>Complies</p> <p>Complies</p> <p>Complies</p>
<p>55 Fire sprinklers</p> <p>A consent authority must not grant consent to carry out development for the purpose of a residential care facility for seniors unless the proposed development includes a fire sprinkler system.</p>	<p>Details to be provided prior to construction certificate.</p>	<p>Complies</p>

The above compliance table demonstrates that the proposed development is generally consistent with the requirements of the Senior Housing SEPP for aged care facilities. Accordingly, the development can be considered consistent with the LEC planning principles for proposals on land with existing use rights. A discussion of the building height non-compliance is provided below:

Building Height:

The applicant has proposed a variation to the building height development standard contained in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 relating to aged care facilities. Notwithstanding the SEPP does not apply to

the DA as it is proposed under existing use rights, it has been taken into consideration for assessment purposes.

Clause 40(4) of the Seniors Housing SEPP prescribes a maximum building height of 8 metres and two storeys for aged care facilities in locations where residential flat buildings are not permitted. Building 10 has a proposed overall height of 13 metres and includes three stories.

The applicant has provided the following response to the 8m height limitation in the context of the proposed upgraded aged care facility, as follows:

“Building 10 is a larger three storey building that is situated in the south eastern portion of the site and will cater to high care needs residents. It will replace an existing 2 storey building with a pitched roof and is required in order to achieve a critical mass of patients to support the associated level of care and resident support facilities on the site.

The roof ridge of Building 10 is 13m which is taller than the LEP height limit of 8.5m for the surrounding area. Nevertheless, the building has been positioned and designed to nestle comfortably within the suburban streetscape. The proposed height is considered acceptable because:

- it is situated at the lowest point of the site and therefore it does not present as a dominant feature of the streetscape, particularly when viewed from Judd Avenue;*
- it will not result in an overdevelopment of the site, with the total GFA remaining substantially less than the maximum permitted;*
- it facilitates a continuation of the suburban landscape setting by reserving land for open space that would otherwise need to be developed for a lower density facility in order to maintain the required resident numbers;*
- adequate separation is provided to existing and future buildings at the site;*
- there is an appropriate transition in height to the adjacent 2 storey buildings across Thomas Avenue;*
- the building is situated within the centre of the Hammond Care site and will not result in any unacceptable impacts, including privacy or overshadowing, to adjoining properties or buildings (refer to Section 4.6 below);*
- it will not result in the loss of any significant views or the interruption of vistas;*
- it will allow for the continuation of the site’s social heritage by facilitating a range of affordable accommodation options in accordance with the HammondCare philosophy.”*

In addition to the applicant response, Figure 28 below provides an impression of Building 10 from Judd Avenue in the context of the proposed single storey cottages to the north. As depicted in this figure, Building 10 is likely to appear as a two-storey building from this external street (Judd Avenue) and as a three storey building from within the HammondCare site, refer back to Figure 19.



Figure 28: View of Building 10 from Judd Avenue

The applicant has confirmed that the independent living units situated directly opposite Building 10 and to the south have an overall building height of 7.2m. While there is a 5-6m height difference between these buildings and Building 10, the applicant comment that a transitional height relationship will be formed between these buildings is considered likely and thus Building 10 is considered to propose an acceptable height with regards to its relationship with those buildings. In addition to this, the development is not considered likely to cause unreasonable overshadowing or visual privacy intrusions to the independent living units to the south as there is considered to be sufficient building separation provided between these buildings across Thomas Avenue. Figure 29 demonstrates the extent shadows cast by Building 10 to the independent living units at 9am, 12pm and 3pm during the winter solstice. The shadows cast onto these building by Building 10 are not considered unreasonable in this case.

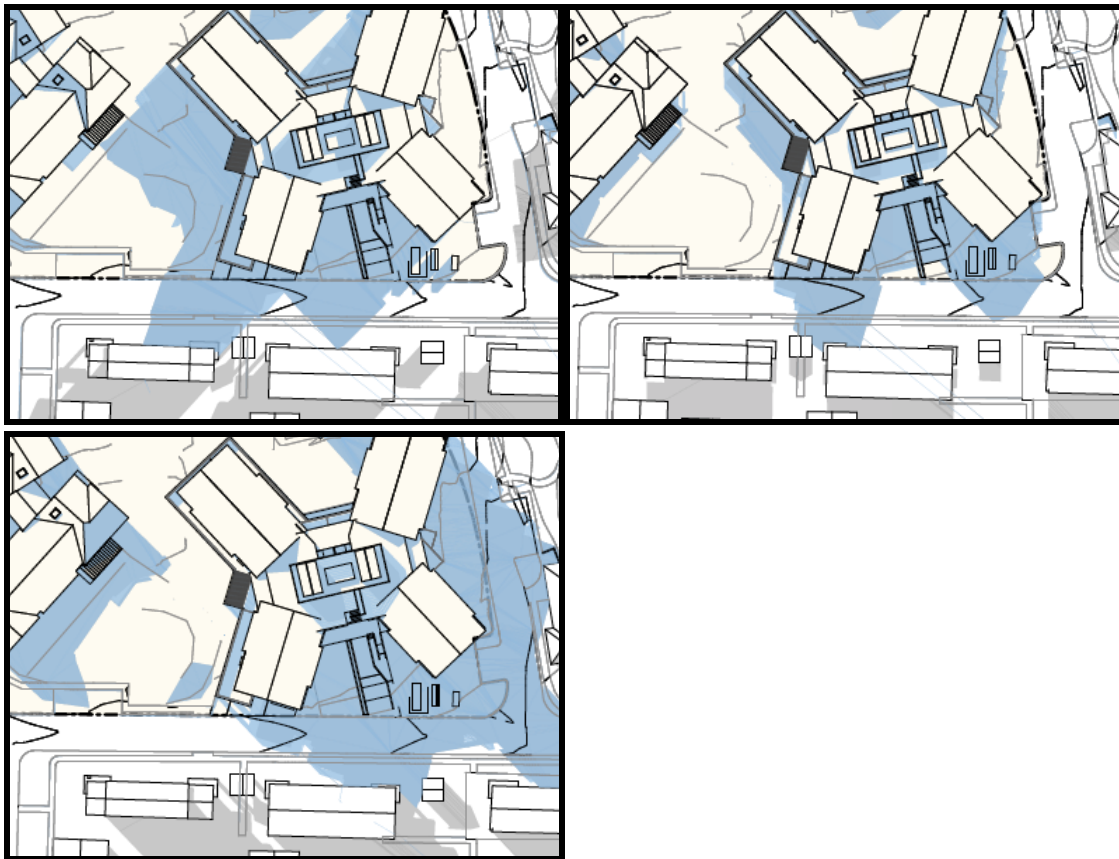


Figure 30: Shadows cast by Building 10 onto Thomas Avenue (9am top left, 12pm top right and 3pm bottom left)

It is also important to note the functionality of Building 10 in the consideration of the 13m building height proposed. In order for HammondCare to provide high level services to dementia patients, patient capabilities and their proximity to services are the key elements in shaping building design. Accordingly, a three-storey building with centralised services and accessibility to all storeys is proposed in order to provide the most efficient care possible to the intended occupants. This centralised building also assists in ensuring an internal layout that is responsive to the characteristics of high-care dementia patients and is easy to navigate. Providing a centrally focused building that maximises the service core rendered through a repeated floor plate over three levels, as opposed to being spread throughout three ground level buildings, is likely increase the effectiveness of services rendered to occupants and is therefore considered an acceptable impetus for seeking a variation to the Seniors Housing SEPP 2004 8m height standard.

In the absence of potential unacceptable environmental impacts to adjoining buildings and uses within the HammondCare site as a result of Building 10 being 13m high, the case for a purpose built three-storey facility that lends itself to providing more effective services to high-care dementia patients is considered acceptable in this circumstance. It should be noted that the upgraded facility would result in a FSR at the HammondCare site of 0.34:1, where the applicable FSR as per the LLEP 2008 is 0.5:1 and as per the Seniors Housing SEPP 2004 is 1:1. Accordingly, the additional building height would not result in an unreasonable amount of additional floor area at the site and maintains the desired density within the R2 zone.

For the reasons discussed above, the height of Building 10 is considered acceptable and consistent with the LEC planning principles for proposals on land with existing use rights.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The objectives of SEPP 55 are:

- *to provide for a state wide planning approach to the remediation of contaminated land.*
- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Pursuant to the above SEPP, Council must consider:

- whether the land is contaminated.
- if the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.

Clause 7 of SEPP 55 states:

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

For the purposes of this Clause, the “land concerned” is:

- (a) *land that is within an investigation area,*
- (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

The subject site is not land within an investigation area. In addition, a search of Council's property records reveals no known activities likely to cause contamination have been undertaken on the site.

The site has been used continuously for residential purposes since 1953 and as such the site is unlikely to contain any contaminated land. It is therefore considered that no further investigation is required and that the site is suitable for ongoing use as residential.

In addition, a condition of consent has been imposed requiring the development, including all civil works and demolition, to comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998). Additionally, all fill introduced to the site must undergo a contaminated site assessment.

Given the above, SEPP 55 considerations have been addressed and the land is considered suitable for its continued use for residential purposes.

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP).

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application planning principles are to be applied (Clause 7(2)). Accordingly, a table summarising the matters for consideration in determining development application (Clause 8 and Clause 9), and compliance with such is provided below.

Clause 8 General Principles	Comment
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal provides soil and erosion control measures.

(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The proposal provides a stormwater management system that will connect to the existing system. A Stormwater concept plan also outlines proposed sediment and erosion control measures. Stormwater management associated with the proposal was assessed by Councils Land Development Engineers, who raised no objection to the development.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004. Stormwater management associated with the proposal was assessed by Council's Land Development Engineers, who raised no objection to the development.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	The proposal includes a Stormwater Concept plan. There is no evidence that with imposition of mitigation measures, the proposed development would affect the diversity of the catchment. Stormwater management associated with the proposal was assessed by Council's Land Development Engineers, who raised no objection to the development.
(f) whether there are any feasible alternatives to the development or other proposal concerned.	The site is located in an area nominated for residential development and is considered appropriate for the site.

Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The site is affected by acid sulphate soils. The development is on land identified as Class 5 acid sulfate soils and it should be noted that excavation works are not proposed below 5m AHD. Based on this and the requirements of clause 7.11 of the LEP, any potential acid sulfate soils are not likely to be disturbed and therefore best practice measures will be implemented during construction in accordance with a Construction Management Plan.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site contains flood affected land. This aspect has been reviewed by Council's Floodplain Engineers who have raised no issues subject to conditions.
(4) Industrial discharges	Not applicable. The site has been used for residential purposes.
(5) Land degradation	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	A Stormwater Concept Plan proposes connection to existing services.

(10) Urban development areas	<p>The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy.</p> <p>The site is not identified as being an Urban Release Area under LLEP 2008.</p>
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	A drainage plan proposes stormwater connection to existing services.
(13) Wetlands	Not applicable.

It is considered that the proposal satisfies the provisions of the GMREP No.2 subject to site remediation and appropriate sedimentation and erosion controls during construction, the development will have minimal impact on the Georges River Catchment.

Liverpool Local Environmental Plan 2008

As stated previously the subject site is zoned R2 – Low Density Residential under Liverpool Local Environmental Plan 2008 (LLEP 2008). The proposed development is defined as 'seniors housing', which is not permitted in the zone.

Principal Development Standards

While the development application is sought pursuant existing use rights and the LEP is not technically applicable to the proposal, in accordance with the LEC planning principles for proposals on land with existing use rights, the following development standards have been taken into consideration:

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
4.3 Height of Buildings	Maximum height 8.5m	13m	Does not comply – Considered acceptable. See Building Height discussion in Senior Housing SEPP section above.
4.4 Floor Space Ratio	0.5:1	0.34:1	Complies
5.9 Preservation of trees or vegetation	Provides when consent is required to be granted subject to the provision of this clause to remove trees or vegetation	Landscaping plan and arboricultural report identifies trees to be retained and removed.	Complies

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
5.10 Heritage conservation	Provides when consent is required for proposals in proximity of or relating to a heritage item and the assessment and conservation strategies required.	<p>The development includes the upgrading of the Bond Complex at the site.</p> <p>The site is listed as a heritage item for its social/cultural contributions to the development of the area and provision of service to elderly members of the LGA. Accordingly, the buildings are not heritage listed for their design of architectural significance.</p> <p>Councils Heritage advisor has reviewed the proposal and raises no objection to the proposed upgrade of Bond House and supports its potential to continue and increase the level of aged care services to the locality. Councils heritage advisor also supports the proposed conservation management strategy for the site.</p>	Complies, see further comments below.
6.5 Public Utility Infrastructure	Public utility infrastructure must be available	Provided by conditions of consent	Complies
7.7 Acid Sulfate Soils	Consideration of construction and civil works measures.	<p>The development is on land identified as Class 5 acid sulfate soils and it should be noted that excavation works are not proposed below 5m AHD. Based on this and the requirements of clause 7.11 of the LEP, any potential acid sulfate soils are not likely to be disturbed and therefore best practice measures will be implemented during construction in accordance with a Construction Management Plan.</p>	Complies

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
7.8 Flood planning	Development consent required. Development not to adversely affect flood behaviour and other properties. Occupation and evacuation to be safe. No detriment to environment. Compatible with flow of waters.	Flooding has been reviewed by Council's Flood Engineers who raise no objections to the subject proposal.	Complies
7.31 Earthworks	Council to consider matters listed (a)-(g)	Matters addressed by applicant and considered by Engineers – conditioned as required	Complies

As per the above table, the development is considered acceptable with regards to the applicable LEP development standards and provisions. Heritage is discussed in further detail below:

Heritage:

Council's heritage advisor has provided the following comments with regards to the proposal:

"The relevant heritage item is LEP Heritage Item N0.29 and the significance is the social value for the demonstration of the Hammondville settlement post WWII and the associations with the local community and religious institutions which underpinned Hammondville and Rev. Bernard Judd in particular.

The proposal utilises a domestic scale layout to provide the replacement accommodation. The character and form of the proposal is consistent with the current practice for this form of housing and is appropriate within the heritage significance of the site.

The demolition is extensive however it retains three important elements of the early Bond building within the redeveloped scheme. The character is complemented by the new works.

The proposed works at 68-82 Stewart Avenue, Hammondville are appropriate on heritage grounds as specified within the Liverpool LEP, provided that Recommendations 2-9 are followed."

Accordingly, Council's heritage advisor has provided recommended conditions for approval that are recommended to be imposed on any consent granted. With regards to the above, the development is considered acceptable with regards to the heritage listing onsite.

6.2 Section 79C(1)(a)(ii) - Any Draft Environmental Planning Instrument

No applicable draft planning instruments apply to the proposal.

6.3 Section 79C(1)(a)(iii) - Provisions of any Development Control Plan

Part 1 - General Controls for all Development of the Development Control Plan apply to the proposed development and prescribe standards and criteria relevant to the proposal.

The following compliance table outlines compliance with these controls.

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT

CONTROLS	PROVIDED	COMPLIES
2. TREE PRESERVATION	<p>The DA had been amended by the applicant to retain additional trees on the southern side of the at-grade car park.</p> <p>A total of 21 trees will be removed as part of the proposal and the amount of trees to be retained onsite has increased from 19 to 22 as part of the amended application.</p> <p>The application including tree preservation has been reviewed by Council's Landscape Officer and Natural Resource Planner, who have raised no objection to the proposal subject to conditions.</p>	Complies
3. LANDSCAPING	<p>Extensive landscape works have been proposed around the Bond House Complex. Landscaping associated with the upgraded Bond House has been designed to complement the residential amenity of the dementia patients. Any trees to be removed are located where new buildings or sealed areas are proposed. The largest trees along Judd Avenue have been purposely retained to maintain the current streetscape amenity.</p> <p>The application including landscaping has been reviewed by Council's Landscape Officer and Natural Resource Planner, who have raised no objection to the proposal subject to conditions.</p>	Complies
4. BUSHLAND AND FAUNA HABITAT PRESERVATION	<p>Parts of the subject site have been identified as Environmentally Sensitive Land along the eastern property boarder, see Figure 12 above.</p> <p>The proposed at-grade car park does encroach onto land identified as Environmentally Significant, however, it should be noted that there is no vegetation in this portion of the site and accordingly, no ESL vegetation proposed to be removed.</p> <p>The application including ESL has been reviewed by Council's Landscape Officer and Natural Resource Planner, who have raised no objection to the proposal subject to conditions.</p>	Complies

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT

5. BUSHFIRE RISK	<p>The site is affected by bushfire along the eastern site boundary and the proposed upgraded aged care facility is outside of the bushfire prone land. The proposed at-grade car park is located on land mapped as being bushfire prone.</p> <p>Notwithstanding the aged car facility being outside of the bushfire prone land the DA has been referred to the NSW RFS for comments. NSW RFS raised no objection to the development subject to conditions.</p>	Complies
6. WATER CYCLE MANAGEMENT	Stormwater management associated with the proposal was assessed by Council's Land Development Engineers, who raised no objection to the development.	Complies
7. DEVELOPMENT NEAR CREEKS AND RIVERS	Stormwater management associated with the proposal was assessed by Council's Land Development Engineers, who raised no objection to the development. As the site is flood affected the proposal was assessed by Council's Flood Engineers, who have raised no objection to the development.	Complies
8. EROSION AND SEDIMENT CONTROL	Stormwater management and Erosion/Sediment Control associated with the proposal was assessed by Council's Land Development Engineers, who raised no objection to the development.	Complies
9. FLOODING RISK	As the site is flood affected the proposal was assessed by Council's Flood Engineers, who have raised no objection to the development.	Complies
10. CONTAMINATION LAND RISK	See SEPP 55 assessment above.	Complies
11. SALINITY RISK	Site is identified as have a low salinity potential.	Complies
12. ACID SULFATE SOILS RISK	The development is on land identified as Class 5 acid sulfate soils and excavation works are not proposed below 5m AHD. Based on this and the requirements of clause 7.11 of the LEP, any potential acid sulfate soils are not likely to be disturbed. Accordingly, best practice measures will be implemented during construction in accordance with a Construction Management Plan.	Complies
13. WEEDS	Any noxious plants shall be removed during site works.	Complies
14. DEMOLITION OF EXISTING DEVELOPMENT	Demolition works and waste management plans submitted by applicant. Appropriate demolition conditions shall be imposed.	Complies

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT

15. ON-SITE SEWERAGE DISPOSAL	No on-site sewage disposal proposed.	Complies
16. ABORIGINAL ARCHAEOLOGY	Council's Heritage Advisor has reviewed the subject DA and raised no objection to the proposal in relation to potential conflicts with Aboriginal archaeology. Conditions have been imposed to protect any Aboriginal archaeology uncovered at the site as a result of the proposal.	Complies
17. HERITAGE AND ARCHAEOLOGICAL SITES	<p>Council's Heritage Advisor has reviewed the subject DA and raised no objection to the proposal in relation to potential conflicts with the Heritage Listing of the site as per the LLEP 2008.</p> <p>The site is listed as a heritage item for its social/cultural contributions to the development of the area and provision of services to elderly members of the LGA. Accordingly, the buildings are not heritage listed.</p> <p>Council's Heritage advisor has reviewed the proposal and raises no objection to the proposed upgrade of Bond House and supports its potential to continue and increase the level of aged care services to the locality.</p>	Complies
18. NOTIFICATION OF APPLICATIONS	<p>The application was notified in accordance with the DCP to adjoining and opposite properties.</p> <p>One submission have been received objecting to the proposal, which include a petition with approximately 40 signatures in support of the objection.</p> <p>The submission raises concern for the at-grade car park and its design in the context of the site. This is discussed further in Section 6.9 of this report below.</p>	Complies
20. CAR PARKING & ACCESS	<p>As per the Senior Housing SEPP 2004, 10.33 spaces are required to service 155 proposed beds. To service staff 34.5 spaces are also required.</p> <p>Accordingly, the total requirement is 44.83 or 45 spaces with one ambulance space.</p> <p>The applicant has proposed 134 spaces and</p>	Complies

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
	2 ambulance spaces.	
20. WATER CONSERVATION	Development has been designed to incorporate water sensitive urban design techniques.	Complies.
21. ENERGY CONSERVATION	Development as proposed complies with Section J Energy Efficiency building fabric assessment.	Complies
25. WASTE DISPOSAL AND RE-USE FACILITIES	A waste management plan has been submitted, which outlines procedures for demolition, construction and ongoing waste management.	Complies
25. OUTDOOR ADVERTISING	Noted	N/A
26. SOCIAL IMPACT ASSESSMENT	The application was referred to Council's Community Planning Section for assessment regarding social impacts associated with the proposed development. Council's social planner reviewed the proposal and raised no objection to the upgraded aged care facility.	Complies

The above DCP Compliance table demonstrates that the proposed development is fully compliant and consistent with the applicable development controls contained in the Liverpool DCP 2008. Accordingly, the development is considered acceptable in relation to the DCP and is considered consistent with the LEC planning principles for proposals on land with existing use rights.

6.4 Section 79C(1)(a)(iia) - Any Planning Agreement or any Draft Planning Agreement

No applicable draft planning instruments apply to the proposal.

6.5 Section 79C(1)(a)(iv) – The Regulations

No additional items for consideration.

6.6 Section 79C(1)(a (v) – Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates

No additional items for consideration.

6.7 Section 79C(1)(b) – The Likely Impacts of the Development

(a) Natural and Built Environment

Environmentally Sensitive Land:

As per Figure 12 above, the site is identified as containing potentially environmentally sensitive land. The proposed at-grade car park on the eastern portion of the site does encroach slightly onto land identified as ESL, however, there is no vegetation on this land. This is demonstrated in the following figure, Figure 31.



Figure 31: Part of at-grade car park on ESL

As per the community consultation process, see Part 6.9 of this report for further details, it is recommended that the subject car park is shifted 5m to the north of its proposed location shown in Figure 31. Accordingly, where this was to occur this would not result in any loss of vegetation on any land identified as being ESL.

In addition to this, the application was referred to Council's Landscaping Officer and Natural Resources Planner for comments about the proposal, with special regards to the ESL. Both officers did not have any concerns on the development proposed partly on ESL land and provided no further comments.

In this regard, the proposed development is considered acceptable with regards the ESL affectation onsite.

Bushfire Prone Land:

As per Figure 11 above, the site is partly identified as being bushfire prone land along the eastern third of the site. Accordingly, the DA is Integrated Development as per Section 100B of the Rural Fire Act 1997 and required approval from the NSW Rural Fire Service.

On the 14 January 2017 the NSW RFS notified Council that they raised no objection to the DA, subject to their general terms of approval. In this regard, the development is considered acceptable with regards to the bushfire affectation onsite.

Flood Prone Land:

As per Figure 10 above, the site is partly affected by flooding. Council's flood engineers have provided the following comments in regards to this affectation:

"The property is located on the floodplain of the Georges River and the site for the proposed development is affected by flooding under the probable maximum flood (PMF) event. The proposed development involves staged demolition and reconstruction of the existing agedcare facility and construction of an on-ground car park."

The applicant has proposed to construct all habitable areas at or above the probable maximum floor level. The proposed carpark is not affected by the design flood levels of 5% AEP, which satisfies Council's requirements."

In addition to the above, Council's flood engineer has provided flood related conditions of consent. Accordingly, the development is considered acceptable with regards to flooding, subject to those conditions.

Tree Removal:

In order to accommodate the upgraded facility onsite the development requires the removal of 12 trees within the vicinity of the Bond House Complex. Due to their location in relation to parts of the upgraded facility these trees cannot be retained. Council's landscape officer has reviewed the removal of these trees and has raised no objections. It should be noted that the applicant has designed the upgraded facility to retain 13 trees surrounding the upgraded Bond House Complex. All of the street trees along Judd Avenue that are considered to positively contribute to the aesthetic of the streetscape have been retained by the applicant, as well as two trees within the inner part of the Bond House complex. These two trees have been retained as there is scope to protect them during works and they are likely to contribute positively to the upgraded facility onsite. Tree removal and retention around the Bond House Complex is shown in the following figure, Figure 32.

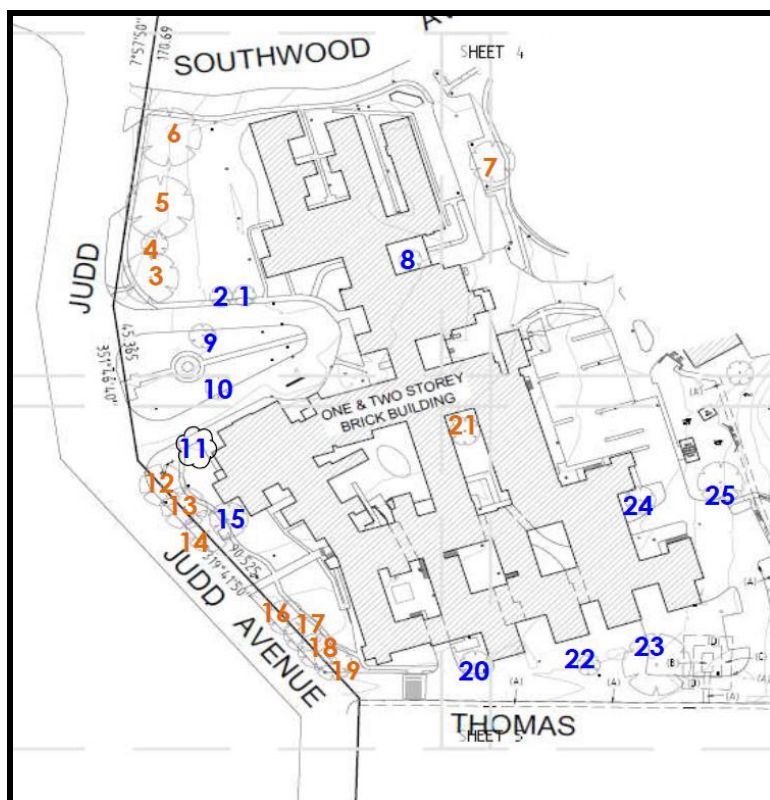


Figure 32: Trees to be removed in blue, tree to be retained in orange

In relation to the at-grade car park, this will result in the removal of 9 trees and the retention of 9 trees. The originally submitted proposal included the removal of 15 trees around the at-grade car park, however, the amended proposal has reduced this number. Tree retention and removal surrounding the at-grade car parking area was reviewed by Council's Landscape Officer, who raised no objections. Accordingly, tree removal and retention associated with the proposed development is considered acceptable in this circumstance.

General Comment:

The impacts of the development on the natural environment have been assessed and the development is considered to be acceptable and unlikely to cause adverse impacts. Issues considered included, but were not limited to: soil contamination, earthworks, flooding, stormwater management, bushfire, erosion and sediment control, and development near environmentally sensitive land.

The impacts on the built environment have also been assessed and are also considered to be acceptable and unlikely to have negative impacts. Issues considered included, but were not limited to: adequacy of car parking areas, built form (height, bulk, scale), streetscape and visual impacts, overshadowing, acoustic impacts, access, site layout; compliance with Building Code of Australia (BCA) and Australian Standards (AS); fire safety requirements, adequacy of site services, waste management; and potential impact on amenity of locality.

Accordingly, the development is considered acceptable in regards to potential impacts to the natural and built environment.

(a) Social Impacts and Economic Impacts

The proposal is unlikely to cause any adverse social impacts in the locality. Overall, the proposal is likely to contribute positively to the locality by providing beneficial aged care services to the local and wider community and is acceptable with respect to any potential social impacts.

The potential economic impacts of the development in the locality are acceptable. The development is likely to have a positive contribution to the local economy via the capital investment value associated with the proposal and ongoing employment opportunities.

Liverpool Contributions Plan 2009

The Liverpool Contributions Plan 2009 provides information on the extent of anticipated new development, the extent of new public services and amenities needed to support the new development and the contributions that the new development must make to fund the public services and amenities.

In accordance with this plan the applicable contribution fee is **\$48,348**.

6.8 Section 79C(1)(c) – The Suitability of the Site for the Development

The site which currently contains an existing aged care facility is considered to be suitable for the proposed development including the construction of an upgraded aged care facility building and at-grade carpark.

6.9 Section 79C(1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

Internal Department	Status and Comments
Building	No objection, subject to conditions
Landscaping	No objection, subject to conditions
Natural Resources Planning	No objection, subject to conditions
Environmental Health	No objection, subject to conditions
Land Development Engineering	No objection, subject to conditions
Traffic Engineering	No objection, subject to conditions
Flooding	No objection, subject to conditions
Heritage	No objection, subject to conditions
Community Planning	No objection, subject to conditions

(b) External Referrals

The following comments have been received from External agencies:

External Department	Status and Comments
NSW Rural Fire Services (Integrated Development)	No objection, General Terms of approval provided
Roads and Maritime Services	No objection, no conditions
NSW Police	No objection, subject to conditions
Endeavour Energy	No objection, subject to conditions
Sydney Water	No objection, subject to conditions

(c) Community Consultation

The proposal was notified from 20 December 2016 to 18 January 2017 in accordance with Liverpool Development Control Plan 2008. As a result of this process, two submissions were received objecting to the at-grade car park associated with the proposed development. One of the submissions contained a petition with approximately 40 signatures. The matters of objection related to the loss of amenity to the Independent Living Units by removal of open space and vegetation and the introduction of cars to this undeveloped part of the site.

The applicant was given the opportunity to respond to the objections raised in the two submissions and provided a response dated, 15 May 2017. The applicant's response was published on Council's website where the objecting parties were given the chance to review and make further submissions. One further submission was received with regards to the proposal, maintaining some of the objections raised with regards to the at-grade car park. This submission was dated 1 August 2017 and was published on Council's website so that the applicant may respond. No further response was made by the applicant in relation to the most recent public submission.

The range of issues raised in the latest submission, and a response to each, are summarised below:

Issue 1: Further movement of amended carpark

The objectors note the extension to the amended car park by 3m to the north to facilitate additional tree plantings within the car park, to retain the trees on the southern side of the car park, to include additional tree plantings on the southern side of the car park and to change the direction of vehicles circulating through the space. While these factors are considered acceptable by the objecting party, it is requested that consideration be given to shifting the amended car park 5m to the north.

Shifting the amended car park 5m to the north would not interfere with the two existing sewer pump-out pits and switch box on undeveloped land approximately 15m north of the amended car park. It would also assist in assuring that the existing trees south of the car park will be retained and not disturbed by construction processes and would provide an additional buffer between the car park area and the Independent Living Units. And both of these outcomes could be obtained without a loss in the parking numbers proposed. Where the applicant has raised concern that relocating the car park to the north would discourage its use, this is contended in this scenario. If the amended car park is moved 5m to the north of its proposed location, this would have a negligible effect on walking distances to and from the parking area to the rest of the HammondCare site. Where the applicant has raised concern that moving the car park north would require an extension of the roadway connecting to Thomas Avenue, this is also contested. In this scenario, moving the car park to the north by 5m would not result in any extensions to the existing access roadway to Thomas Avenue.

Comment

In light of the discussion raised in the objection with regards to shifting the amended at-grade car park proposed at the site 5m to the north of its current location, it is recommended that it be relocated 5m to the north. This has been recommended as a condition of consent.

Issue 2: Raised Soil Buffer

It is requested as per the first submission, that a raised soil mound be included on the southern side of the car park to increase the buffer between this use and the Independent Living Units.

Comment

A raised soil mound on the southern side of at-grade car park is considered to be of additional assistance in attempting to mitigate amenity impacts from the car park to existing residents to the south. A raised mound would assist in deflecting acoustic disturbances, would provide partial visual screening to and from the car park and would partially filter any light spill to the south from night time use of the car park. In this regard, it is recommended that the landscape plan be amended by the applicant to include raised soil mounds on the southern side of the car park. Seeing as it is also recommended to shift the car park to the north by 5m, there is considered to be sufficient room to accommodate the raised soil mounds without compromising the health of the existing vegetation.

Issue 3: No consultation

It is noted in the applicant's response to the planning panel, dated 21 June 2017, and the applicant's response to the submissions, dated 15 May 2017, that the amended car park was designed in consultation with the residents of Independent Living Units. No such consultation occurred.

Comment

Noted.

Considering the assessment of the community consultation process above, it is recommended that the landscape plans be amended by the applicant to shift the proposed at-grade car park 5m to the north of its proposed location and to provide soil mounds on the southern side of the car park and between the existing trees to be retained. This can be imposed as a condition of consent, requiring an amended landscape and car park plan to be formulated prior to the issue of a construction certificate and to the satisfaction of the PCA.

6.7 Section 79C(1)(e) – The Public Interest

The proposal is considered to be in the public interest as will provide a significant benefit to the community through the provision of high care services to people with differing levels of dementia. The development, with the inclusion of recommended changes to the at-grade carpark, will complement and continue the historic and cultural significance of the Hammond Care site as a provider of aged care services with high level amenity for its occupants.

7 CONCLUSION

In conclusion, the following is noted:

- The applicant has provided evidence that adequately demonstrates that the subject development application and proposed development benefits from Existing Use Rights and can be determined accordingly;
- The applicant has demonstrated that the proposal is consistent with the Land and Environment Court (LEC) Planning Principles relating to existing use rights as formed in *Fodor Investments v Hornsby Shire Council (2005)*. In this regard, the development is considered acceptable with regards to the applicable SEPP's, including the Seniors Housing SEPP 2004, and Councils LEP and DCP requirements;
- The applicant has sufficiently demonstrated that the development is acceptable as per Section 79C of the Environmental Planning and Assessment Act 1979;
- The development is considered acceptable with regards to the consultation of the community, in light of the amended at-grade carpark design provided by the applicant and the recommendation to shift the at-grade carpark 5m to the north provided through conditions; and
- The development is considered acceptable with regards to Council's various internal departments and the external authorities including: RMS, NSW RFS, NSW Police, Endeavour Energy and Sydney Water.

For the reasons above, DA-1183/2016 for demolition work and construction of an upgrade aged care facility with associated car parking and landscape works at part of the subject site is recommended for approval.

8 ATTACHMENTS

- 1) Draft Conditions of consent**
- 2) Architectural Plans**
- 3) Architectural Design Statement**
- 4) Design excellence panel comments**
- 5) Submissions lodged with the DA**
- 6) Statement of Environmental Effects**
- 7) Arborist Report and the addendum to that report prepared by Red Gum Horticultural**